

For: State and County Offices

**Monitoring Delinquent Lease Payments**

Approved by: Deputy Administrator, Farm Loan Programs

*Carolyn B. Cooksey*

**1 Overview**

**A  
Background**

Recent FOCUS reports indicate that the Agency has an inordinate amount of delinquent lease payments. In many cases, these payments may not have been processed correctly to the Acquired Property Tracking System (APTS). In addition, many delinquent leases are being paid current without charging interest accrual on the overdue payment. Some leases have not been canceled after the sale of the property. In some cases, the lease may have been amended but not properly reported to the Finance Office (FO).

**B  
Purpose**

This notice:

- establishes a reporting and followup system to collect and correct lease receivables being shown as past due
- assigns the responsibility for the monitoring of this action.

**C  
Contact**

Direct any questions concerning:

- this notice to LSPMD
- adding, removing, or correcting information on APTS to:
  - Sharon Gottlieb at 314-539-3967 or Kathy Biddle at 314-539-3459 for States 1-32
  - Ron Schaefer at 314-539-7198 for States 33-64.

**Disposal Date**

February 1, 1999

**Distribution**

State Offices; State Offices relay to County Offices

## 2 Action

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### A Penalty Interest

According to 31 U.S.C. 3717, interest of 5 percent will be charged when a lease payment is 30 calendar days past due. A schedule of the calendar year interest rate will be distributed on a yearly basis. Interest will not be charged on interest, however, penalty interest will accrue at an additional 6 percent per annum on payments which are 90 calendar days past due. The lessee will be notified in a demand letter for payment of the past due lease and accrued interest charges.

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### B Offsets

Delinquent lessees who are more than 90 calendar days past due will be notified of Administrative Offset according to FmHA Instruction 1951-C, when applicable.

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### C Tracking

Each DD, with the assistance of the Ag Credit Director (ACD), will develop a tracking system that contains as a minimum the following:

- name of the lessee
  - date of last lease payment
  - last known address of lessee
  - amount of unpaid lease payments
  - date of the demand for the lease payment was mailed by certified mail and regular mail with appeal rights explained
  - the date the lease was referred for offset, or deficiency judgment if the lessee failed to pay after the Agency demand was made
  - if the deficiency judgment or past due lease payment is uncollectible, state the reason why, such as:
    - bankruptcy discharge
    - statute of limitations
    - cancellation by the Agency
    - chargeoff by the Agency
    - lease terminated before expiration, because of:
      - sale of property
      - failure to close lease account at finance.
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### 2 Action (Continued)

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#### C

##### Tracking (Continued)

If a lease receivable is uncollectible, DD will inform ACD and followup until lease account is collected or determined uncollectible and the lease agreement has been amended, canceled, or chargeoff.

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#### D

##### Responsible Party Actions

DD's with the assistance of ACD and ACM will determine the county in which past due leases are located.

DD's shall then report activities and results to SED on a quarterly basis.

ACD shall advise the State Office APTS contact to:

- correct FO records on those leases where no action has been taken to collect lease payments for the past 6 years and where the statute of limitations has expired
- correct those leases from the FO records which improperly reflect an uncollected lease, when in fact they have not been properly credited to the lease account or the lease was terminated because of the sale of the property
- correct and report to FO those leases canceled through legal action
- correct those leases that have been debt settled, for which no collection of past due lease payments is possible, by chargeoff or cancellation as required by FmHA Instruction 1956-B
- correct APTS to reflect those leases canceled before the lease expiration date if lease payments were collected up to the point where the lease was canceled or amended.

ACD's and ACM's should be aware that lessees having a lease with an option to purchase may not exercise the option unless the lease is in a current status. Any delinquent lease payment or pro rata lease payment must be collected by the Agency before the closing of any sale of the property.

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